

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4557

To amend the Social Security Act to require the Secretary of Health and Human Services to establish a program to verify employee social security information, and to require employers to use the program.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 1994

Mr. CALVERT (for himself, Mr. HALL of Texas, Mr. MCCOLLUM, Mr. TRAFICANT, Mr. BILBRAY, Mr. HOLDEN, Mr. SMITH of Texas, Mr. COLLINS of Georgia, Mr. LEVY, Mr. HUNTER, Mr. McKEON, Mr. GALLEGLY, Mr. ARCHER, Mr. CUNNINGHAM, Mr. LEHMAN, Mr. SMITH of Oregon, Mr. EMERSON, Mr. ROHRABACHER, Mr. SHAYS, Mr. CANADY, Mr. KIM, Mr. GOSS, Ms. MOLINARI, Mr. GALLO, Mrs. VUCANOVICH, Mr. LEWIS of Florida, Mrs. ROUKEMA, and Mr. MOORHEAD) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Social Security Act to require the Secretary of Health and Human Services to establish a program to verify employee social security information, and to require employers to use the program.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Social Security Ac-  
5       count Number Anti-Fraud Act”.

4 **SEC. 3. SOCIAL SECURITY ACCOUNT NUMBER ANTI-FRAUD**  
5 **PROGRAM.**

9       “Verification of Employee Social Security Account  
10                                  Numbers

17           “(i) each American employer, either by tele-  
18           phone through use of a toll-free telephone number or  
19           by other electronic device—

•HR 4557 IH

1           “(II) may transmit the social security ac-  
2           count number and name of any employee of the  
3           employer to whom subclause (I) does not apply,  
4           and any other information concerning the em-  
5           ployee that the Secretary requires by regula-  
6           tion, to the Secretary; and

7           “(ii) notwithstanding any provision of section  
8           552a of title 5, United States Code, the Secretary  
9           shall, upon receiving the information transmitted  
10          under clause (i), instantaneously notify the employer  
11          that there is or is not a discrepancy concerning the  
12          information, by sending a communication to the  
13          same electronic device through which the informa-  
14          tion was transmitted to the Secretary.

15          “(B)(i) The Secretary shall give each employer a ver-  
16          ification number for each employee social security account  
17          number that the employer transmits under the program  
18          established under this paragraph.

19          “(ii) The Secretary shall maintain, for at least the  
20          amount of time during which prosecution for crimes relat-  
21          ing to fraudulent use of a social security account number  
22          would be allowable under applicable statutes of limita-  
23          tions, records of all contacts that occur under subpara-  
24          graph (A) or (D) between the Secretary and an employer.

1       “(C) The Secretary shall establish guidelines to de-  
2 scribe the characteristics that constitute a discrepancy  
3 concerning a social security account number transmitted  
4 to the Secretary under the program established under this  
5 paragraph. Under the guidelines, a discrepancy concerning  
6 a social security account number shall be indicated if any  
7 of the following factors is present regarding the number:

8               “(i) An invalid social security account number.

9               “(ii) A social security account number submit-  
10       ted for verification under the program with a name  
11       that does not belong to the correct holder of the so-  
12       cial security account number.

13              “(iii) Unusually frequent use of a social security  
14       account number.

15              “(iv) Use of a social security account number in  
16       geographically distant locations within a relatively  
17       short period of time.

18              “(v) Any other factor that the Secretary deter-  
19       mines to be appropriate.

20       “(D) If a discrepancy concerning the social security  
21       account number of an employee is indicated under the pro-  
22       gram established under this paragraph—

23              “(i) the Secretary shall notify the Commissioner  
24       of Immigration and Naturalization, within 24 hours  
25       after the discrepancy is indicated, of—

1           “(I) the fact that a discrepancy has been  
2           indicated regarding the employee; and

3           “(II) the nature of the discrepancy;

4           “(ii) the Secretary may not, pursuant to this  
5           subsection, notify the employer of the nature of the  
6           discrepancy;

7           “(iii) an employer notified of the discrepancy  
8           under subparagraph (A)(ii) shall notify the employee  
9           that a discrepancy has been indicated within 14 days  
10          after the employer receives the notification;

11          “(iv) the employee shall contact an office of the  
12          Social Security Administration within 14 days after  
13          being notified of the discrepancy under clause (iii);

14          “(v) the Secretary shall notify the employee of  
15          the nature of the discrepancy, upon a written re-  
16          quest by the employee or a request made by the em-  
17          ployee in person at an office of the Social Security  
18          Administration;

19          “(vi) the Secretary shall notify the employee,  
20          the current employer of the employee, and the Com-  
21          missioner of Immigration and Naturalization, in  
22          writing, of the resolution or confirmation of the dis-  
23          crepancy, within 30 days after the employee contacts  
24          the Social Security Administration under clause (iv);

1           “(vii) the current employer of the employee  
2       shall reverify the social security account number  
3       through the program established under this para-  
4       graph within 10 days after the Secretary notifies the  
5       employer, under clause (vi), that the discrepancy has  
6       been resolved; and

7           “(viii) unless the Secretary notifies the em-  
8       ployer, under clause (vi), that the discrepancy has  
9       been confirmed, the employer may not take any ac-  
10      tion to penalize the employee based on the discrep-  
11      ancy.

12          “(E)(i) The Secretary may not charge a fee to any  
13      employer or employee in connection with the utilization of  
14      the program established under this paragraph.

15          “(ii) No employer may charge a fee to—

16              “(I) an employee of the employer in connection  
17      with the utilization of the program; or

18              “(II) a job applicant in connection with, or an-  
19      ticipation of, utilization of the program.

20          “(2) The Secretary may by regulation exempt any  
21      employer from the obligation to use the program estab-  
22      lished under paragraph (1) regarding any employee whose  
23      employment with the employer includes only the perform-  
24      ance of services described in subparagraph (B) or (C) of

1 section 209(a)(6) for remuneration described in such sub-  
2 paragraph.

3 “(3)(A) Failure by an employer to comply with para-  
4 graph (1) of this subsection shall be considered to be a  
5 violation of section 274A(a)(1)(A) of the Immigration and  
6 Naturalization Act (8 U.S.C. 1324a(a)(1)(A)), for pur-  
7 poses of section 274A(e) of such Act, as modified by sub-  
8 paragraph (B).

9 “(B) For purposes of subparagraph (A), section  
10 274A(e) of the Immigration and Naturalization Act (8  
11 U.S.C. 1324a(e)) shall be applied by substituting the term  
12 ‘employee’ for the term ‘unauthorized alien’ in clause (i)  
13 of section 274A(e)(4)(A) of such Act, and for the term  
14 ‘alien’ in clauses (ii) and (iii) of such section.

15 “(4)(A) Any person or business who knowingly and  
16 willfully requests or obtains any record, or information,  
17 from or under the program established under paragraph  
18 (1) under false pretenses shall be guilty of an infraction  
19 and shall be subject to a fine as provided in title 18,  
20 United States Code.

21 “(B) The penalties described in section 552a(i) of  
22 title 5, United States Code, shall not apply to an activity  
23 that is subject to a penalty under subparagraph (A).

24 “(5) For purposes of this subsection:

1           “(A) The term ‘American employer’ has the  
2           meaning given the term in section 210(e), as such  
3           section may from time to time be amended, except  
4           that the terms ‘State’ and ‘United States’ within  
5           such section shall have the meaning given the term  
6           ‘United States’ in subparagraph (D) of this para-  
7           graph.

8           “(B) The term ‘employee’ has the meaning  
9           given the term in section 210(j), as such section may  
10          from time to time be amended, and does not include  
11          a job applicant.

12          “(C) The term ‘new employee’ means an em-  
13          ployee who commences an employment more than 10  
14          years after the date of the enactment of the Social  
15          Security Account Number Anti-Fraud Act.

16          “(D) The term ‘United States’ has the meaning  
17          given the term in section 101(38) of the Immigra-  
18          tion and Nationality Act, as such section may from  
19          time to time be amended.”.

20   **SEC. 4. IMPLEMENTATION OF SOCIAL SECURITY ACCOUNT**  
21                   **NUMBER ANTI-FRAUD PROGRAM.**

22          (a) ESTABLISHMENT OF PROGRAM.—Not later than  
23          180 days after the date of the enactment of this Act, the  
24          Secretary shall implement the Social Security Account



1 Number Anti-Fraud Program on a partial and interim  
2 basis, as provided in this section.

3 (b) INITIAL PERIOD.—The Secretary shall make the  
4 Social Security Account Number Anti-Fraud Program  
5 available for the 18-month period beginning 180 days  
6 after the date of the enactment of this Act to each em-  
7 ployer that participates in Phase II of the Telephone Ver-  
8 ification System administered by the Immigration and  
9 Naturalization Service. If fewer than 200 of the employers  
10 agree to participate in the program, the Secretary may  
11 make the program available to additional employers in the  
12 States of California, Florida, Illinois, New York, and  
13 Texas until the program is available to 200 employers.

14 (c) REPORT ON INITIAL IMPLEMENTATION.—Not  
15 later than 15 months after the beginning of the 18-month  
16 period described in subsection (b), the Secretary shall sub-  
17 mit to the Congress a report that contains—

18 (1) an evaluation of the effectiveness of the So-  
19 cial Security Account Number Anti-Fraud Program  
20 as the program is implemented under subsections (a)  
21 and (b) of this section; and

22 (2) a description of any cooperation between the  
23 Social Security Administration and the Immigration  
24 and Naturalization Service regarding the program.

25 (d) 5-YEAR EXPANSION.—

1           (1) REQUIREMENT REGARDING NEW EMPLOY-  
2       EES.—

3           (A) IN GENERAL.—Not later than 5 years  
4       after the expiration of the 18-month period de-  
5       scribed in subsection (b), each employer in the  
6       States of California, Florida, Illinois, New  
7       York, and Texas shall use the Social Security  
8       Account Number Anti-Fraud Program to verify,  
9       within 30 days after the commencement of the  
10      employment of the employee, the social security  
11      account number of each new employee of the  
12      employer.

13          (B) EXCEPTION.—Paragraph (1) shall not  
14      be construed to require an employer to verify  
15      the social security account number of an em-  
16      ployee if, under regulations issued under section  
17      205(u)(2) of the Social Security Act (as added  
18      by this Act), the employer is not required to  
19      verify the social security account number of the  
20      employee.

21          (2) AVAILABILITY REGARDING OTHER EMPLOY-  
22      EES.—Not later than 5 years after the expiration of  
23      the 18-month period described in subsection (b), the  
24      Secretary shall make the Social Security Account  
25      Number Anti-Fraud Program available to each em-

1        ployer in the States of California, Florida, Illinois,  
2        New York, and Texas.

3        (e) DEFINITIONS.—For purposes of this section:

4            (1) The term “employee” has the meaning  
5        given the term in section 210(j) of the Social Secu-  
6        rity Act (42 U.S.C. 410(j)), as such section may  
7        from time to time be amended, and does not include  
8        a job applicant.

9            (2) The term “new employee” means an em-  
10       employee who commences an employment more than 5  
11       years after the expiration of the 18-month period de-  
12       scribed in subsection (b).

13           (3) The term “Social Security Account Number  
14       Anti-Fraud Program” means the program estab-  
15       lished under subsection (u) of section 205 of the So-  
16       cial Security Act (as added by this Act), but does  
17       not include paragraph (1)(A)(i)(I) or (3) of such  
18       subsection.

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